

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

ROBINSON TEJADA-PARRA

Defendant

CRIMINAL 05-0245CCC

ORDER

Before the Court are the Proposed Jury Instructions on the issue of forfeiture filed by defendant Robinson Tejada-Parra on February 6, 2006 (docket entry 60), to which the United States responded on February 8, 2006 (docket entry 63). Defendant submits two instructions for the Court's consideration, one on innocent ownership and another on the Excessive Fines Clause requirement that the amount forfeited be proportional to the gravity of the offense.

In submitting both instructions, and relying on U.S. v. Bajakajian, 118 S.Ct. 2028 (1998) as supporting authority, defendant appears to have forgotten that he was found guilty by the jury of bulk cash smuggling in violation of 31 U.S.C. §5332. As the government has aptly pointed out, in creating said offense Congress intended to prevent the circumvention of the mandatory reporting provisions enacted in 31 U.S.C. §5311, et. seq., and to further deter the laundering of criminal proceeds by making the cash itself the corpus delicti of the smuggling offense and authorizing its confiscation. In doing so, Congress created a grave offense, impressed on the smuggled cash the concept of illegality, and made its forfeiture entirely proportional to the gravity of the offense. Bajakajian, thus, is inapplicable, and defendant's proposed instructions are irrelevant. The Court will instruct the jury, in conformity with the applicable statutes, that it must determine whether the government established the requisite nexus between the entire amount of \$34,179.00 in U.S. currency and the bulk cash smuggling offense charged in Count Three of the Indictment in order for it to be forfeited to the United States.

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For the reasons stated, defendant's Proposed Jury Instructions on the issue of forfeiture (**docket entry 60**) are DENIED.

SO ORDERED.

At San Juan, Puerto Rico, on February 14, 2006.

S/CARMEN CONSUELO CEREZO
United States District Judge